COMMISSION OF THE EUROPEAN COMMUNITIES

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Report on the application of the rules on
State aid to the steel industry

(presented by the Commission)

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1. Introduction

1.1. Article 8 of Decision No 322/89/ECSC (the "steel aid code") requires the Commission to draw up regular reports on the implementation of the above-mentioned Decision for the Council and, for information, for the Parliament and the Consultative Committee.

1.2. Although aid was granted to the steel industry in relatively few cases in the first two years of application of the Decision (1 January 1989 - 31 December 1990), a report seems desirable at this stage in order to meet Member States' wish to be better informed about Commission decisions on State aid and also in order to contribute material for the preparation of the next aid code as Decision No 322/89/ECSC expires on 31 December 1991.

2. Provisions in force

2.1. Decision No 322/89/ECSC establishing Community rules for aid to the steel industry incorporates the provisions of Decision No 3484/85/ECSC of 27 November 1985. It recognizes as compatible with the common market only aid for research and development (Article 2), aid for environmental protection (Article 3), aid for closures (Article 4) and, on the territory of just one Member State (Greece), aid for regional investment granted under general schemes and not leading to an increase in production capacity (Article 5). Since the unification of Germany, the aid code applies also to the territory of the former GDR. Commission Decision No 3789/90/ECSC of 19 December 1990, however, extends the regional investment aid provisions (Article 5) to the territory of the former GDR in order to take account of the need to modernize its steel industry and bring it into line with Community standards without thereby affecting intra-Community competition. The Commission adopted this Decision on the basis of Article 95 of the ECSC Treaty after consulting the Consultative Committee on 26 November 1990 and obtaining the unanimous assent of the Council on 4 December 1990. With the exception of these individually named aids, no other aid may be paid by Member States in any form whatsoever pursuant to Article 4(c) of the ECSC Treaty.

2.2. The five-year transitional period provided for in the Act of Accession of Portugal expired at the end of 1990. Since then the rules of the steel aid code have been fully applicable.

2.3. The period 1989-90 in Italy saw the application of the general restructuring programme approved by the Commission in December 1988 on the basis of Article 95 of the ECSC Treaty. Under the programme, a new company, Ilva, was to take over the viable and potentially viable parts of Finsider, and State aid totalling LIT 5 170 billion (ECU 3.4 billion) was authorized to reimburse Finsider's creditors, subject to structural adjustments, a strict timetable of closures and the introduction of a rigorous monitoring system.

At the request of the Italian Government, however, the Commission, having obtained the unanimous assent of the Council on 14 November 1989 and having consulted the ECSC Consultative Committee, agreed by Decision of December 1989 to delay the dates of some closures (notably Bagnoli and Turin, postponed to 31 December 1990) (Commission Decision No 89/218/ECSC).

2.4. In an agreement concluded between the European Community and the United States (Commission Decision No 89/636/ECSC of 11 December 1989) on a two and a half year extension of the voluntary restraint arrangements concerning exports of European steel to the United States (VRA), the two parties arrived at a consensus on a code of good conduct on State aid for the steel industry which expires at the same time as the VRA on 31 March 1992. This arrangement, and all the bilateral arrangements between the United States and other steel exporting countries, were modelled on the steel aid code applied within the Community since 1 January 1986. The consensus is seen as contributing to the creation of conditions likely to foster worldwide liberalization of the steel trade.

3. Results of Commission monitoring of aid to the steel industry

3.1. Federal Republic of Germany

3.1.1. Aid for research and development

In February 1989 the Commission approved grant aid of DM 227 500 (ECU 109 000) to Moselstahlwerke GmbH (MSW) under a scheme to foster R&D in small and medium-sized enterprises implemented by the Land of Rhineland-Palatinate.

In November 1989, it approved both an extension to the end of 1991 of an R&D aid scheme for raw materials of the Land of North Rhine-Westphalia and its extension to new sectors. At the same time it approved the application of the scheme to the steel industry.

The scheme, originally approved in 1987, has an annual budget of DM 30-35 million (ECU 14.9-17.3 million), with approximately

15% to the steel industry, some 65% to metal products and 20% to non-metal products (ceramics, fibres).

3.1.2. Former East Germany

No aid was granted in the former GDR during the three months of 1990 in which the steel aid code was in force in that territory.

3.1.3. Procedure pursuant to Article 6(2) of Decision No 322/89/ECSC

Two steel enterprises, Saarstahl and Dillinger Hüttenwerke in Saarland, decided to merge their steel activities and, to that end, set up a holding company, "Dillinger Hütte Saarstahl Beteiligungs AG". Saarland, which held a majority stake of 76% in the former Saarstahl GmbH, decided to inject DM 145 million (ECU 70 million) into the new holding company in order to retain a blocking minority of 27.5%. The Commission considered that the capital contribution reflected the real value of the extra holding acquired in the new company, and decided in July 1989 that it did not include any State aid elements.

3.2. France

3.2.1. Aid for closures

In November 1989 the Commission decided not to object to plans to grant social aid for the closure of certain plants in a number of Usinor Sacilor establishments at Caen, Longwy, Gandrange, Dunkirk, Saint-Etienne, Suzange and Joeuf. The closures involve a reduction in the workforce of 4 535 persons who are entitled to one of the social measures provided for in the collective agreements for the steel industry. The cost is FF 1 027 million (ECU 144.5 million), of which 50% is borne by the State. After consulting the Member States, which raised no objections, the Commission considered on the one hand that the aid measures were compatible with the Community rules on aid to the steel industry and, on the other, that they were likely to facilitate the adjustments that are still necessary in this industry.

3.2.2. <u>Procedure pursuant to Article 6(2) of Decision No 322/89/ECSC</u>

A special loan granted by the public authorities to Usinor Sacilor in 1987 of FF 2 783 million (about ECU 400 million) was converted into capital for the benefit of the company.[1] The Commission checked that the loan was granted under the same conditions as those converted in the same way in 1986 and to which it had not objected provided that the group paid the interest. The Commission therefore concluded in April 1991 that the transaction did not include any aid elements.

3.3. Italy

3.3.1. <u>Aid to the Italian public steel industry</u>

In April 1990 the Commission authorized the Italian Government under Article 6(3) of Decision 89/218/ECSC to grant Ilva an initial tranche of aid of LIT 2 989 billion (some ECU 1.9 billion) intended to reduce Finsider's debts. It checked beforehand on the state of

1 In exchange, the group was to repay in advance the total amount of interest due over an infinite period, discounted to present value.

progress of the restructuring programme (closure of certain plants) and made sure that the condition concerning the level of financial charges in relation to turnover had been complied with.

By 31 December 1990, which was the deadline for completion of the restructuring plan, the decisions and changes imposed by it had been carried out, chiefly in the area of job cuts and closures, with the exception of the closure of the Turin mill.

By letter dated 28 December 1990, sent on 14 January 1991, the Italian authorities gave notice of their intention to request that the closure of Turin (MPP 708 Kt/year) be replaced by the closure of mill No 1 at Cornigliano (MPP 600 Kt/year) and a 108 Kt/year reduction in production capacity at the Racconigi plant.

Finally, by letter dated 12 March 1991 they officially requested the above-mentioned replacement and the release of a second tranche of aid. The Commission considered that the said tranche could total LIT 1 945 billion.

3.3.2. Investment aid

(i) In July 1990 the Commission adopted a negative final decision concerning a subsidized loan of LIT 6 billion (about ECU 3.9 million) granted in December 1987 by the autonomous province of Bolzano to the Bolzano steelworks (Falck group). The loan made it possible to finance an investment in the production of high added value special steels. It did not qualify for any of the exemptions in the steel aid code applicable on the date the aid was granted.

(ii) In July 1989, the Italian authorities notified a plan of the autonomous province of Bolzano to grant aid to the same Bolzano steelworks. In July 1990 the Commission decided under Article 3 of the steel aid code not to object to the part of the aid that would be granted for investments in environmental protection. On the other hand, it gave the Italian authorities notice to submit their comments in accordance with the procedure provided for in Article 6(4) of the code in respect of the other part of the aid intended to finance investments in energy savings, working conditions and qualitative innovations, none of which is provided for specifically in the code. The Italian authorities having subsequently announced that they were withdrawing the aid proposals following the cancellation of the investment programme, the Commission decided to terminate the procedure in March 1991.

(iii) In July 1990 the Commission adopted a negative final decision concerning two aid plans put forward by the Italian Government: the first concerned energy savings at the Tirreno steelworks and was not covered by the aid code. The second, which concerned an investment in environmental protection at the Siderpotenza steelworks, did not comply with the conditions set out in the code.

3.3.3. Operating aid

In November 1990 the Commission invited the Italian Government to submit its comments concerning aid paid in 1987 by the Sardinian region to a Sardinian enterprise, FAS, in order to encourage it to use scrap collected in the island. The procedure was initiated because the aid was not compatible with the steel aid code and the Italian authorities had not taken the necessary steps to order its repayment even though the Commission had urged them to do so.

3.4. Luxembourg

3.4.1. Aid for research and development

In July 1989 and January 1990 the Commission approved the application to the Luxembourg steel industry for the period 1986-89 of the aid scheme provided for by the framework Economic Expansion Law of 14 May 1986. It enabled Arbed and MMR-A to finance five R&D programmes for an estimated totoal cost of FLux 2 560 million. The aid is in two forms:

- an outright capital grant of 15% gross and
- a grant of 10% gross that is repayable if the projects are successful.

There is, however, a ceiling of FLux 423 million on the five programmes. The direct aid was supplemented by loans totalling FLux 300 million granted by the "Société Nationale de Crédit et d'Investissement" for a period of five years at an interest rate of 5%.

3.5. United Kingdom

3.5.1. Procedure pursuant to Article 6(2) of Decision No 322/89/ECSC

In September 1989 the Commission considered that the Welsh Development Agency's plan to acquire a £200 000 stake in the capital of Aberneath Industry, a new company set up to manufacture stainless steel-coated plate, did not include any State aid elements as the acquisition was made on terms also available to other subscribers and the operation was acceptable to a private investor operating under the normal conditions of a market economy.

3.6. Belgium

3.6.1. Procedure pursuant to Article 6(2) of Decision No 322/89/ECSC

The Belgian authorities decided to acquire a stake in an investment by ALZ in a third annealing and pickling line at its Genk plant. Having ascertained that the public shareholding satisfied conditions that would be acceptable to a private investor operating under the normal conditions of a market economy, the Commission decided in July 1990 that the proposed measure did not constitute aid.

3.7. Denmark

3.7.1. Procedure pursuant to Article 6(2) of Decision No 322/89/ECSC

Looking into the financial restructuring carried out by the Danish company Det Dankse Stalvalsværk, the Commission established that the financial commitments of the Danish authorities were not more favourable than those accepted by the private banks concerned. It therefore concluded in January 1990 that the transaction did not contain any aid elements.

3.8. Spain

3.8.1. Aid for research and development

In March 1989 the Commission decided to terminate both the procedure under Article 6(4) of the aid code and the procedure under Article 93(2) of the EEC Treaty initiated in July 1988 in respect of aid granted without prior notification to the steel enterprise Patricio Echeverria SA in the form of an interest subsidy of 3.5 percentage points on a loan of PTA 1 200 million (ECU 9.2 million) aimed at financing an investment and research and development programme costing PTA 5 374 million (ECU 41.0 million). The aid was finally considered compatible with the common market as it has been granted solely for investments in areas covered by the EEC Treaty and for research and development expenditure in fields covered by both the EEC and the ECSC Treaties.

As regards research and development expenditure coming under the ECSC Treaty (PTA 242 million or ECU 1.79 million), the aid satisfies the criteria of the steel aid code since it is aimed at reducing production costs and improving product quality and its intensity is below the 25% ceiling.

3.8.2. Aid for environmental protection

In December 1989 the Commission decided to terminate the procedures under Article 6(4) of the steel aid code initiated in December 1988 in respect of two unnotified grants to the Basque steel enterprise Altos Hornos de Vizcaya. The aid was intended to cover expenditure on environmental protection and complied both with the objective defined in the aid code and with the intensity ceiling.

A similar procedure initiated in February 1990 in respect of a plan to grant aid of PTA 237.1 million (some ECU 1.835 million) to Acerinox SA was terminated in December 1990 when the Spanish authorities agreed to reduce the amount of eligible costs to comply with the criteria of the aid code. The aid finally authorized took the form of a direct grant of PTA 73 million (some ECU 0.571 million) for expenditure on adjusting equipment in the plant to new statutory environmental protection standards in accordance with the criteria of the aid code.

The Basque country adopted aid measures to promote environmental protection in enterprises, notably steel enterprises. A budget of PTA 400 million (ECU 3 million) was made available for 1989, the aid taking the form of grants not exceeding a net intensity of 15% in the steel industry. As it complied with the steel aid code, the Commission approved the application of the scheme to the steel industry in June 1989.

3.8.3. Aid for closures

In June 1990 the Commission approved two proposals to grant closure aid to José Maria Aristrain SA and Esteban Orbegozo SA. The aid totals ECU 19.1 million and is intended to cover a part of the allowances paid to workers made redundant or having to take early retirement owing to the closure of certain unprofitable sections of the enterprises referred to above.

3.8.4. Investment aid

The Commission terminated the Article 6(4) procedure initiated in July 1990 in respect of a plan to grant investment aid to the steel enterprise Extremeña de Laminados SA in the form of a grant of PTA 182 million (some ECU 1.4 million), representing 30% of an investment programme, following notification by the Spanish Government of its decision to cancel the aid plan.

3.9. Portugal

3.9.1. Investment aid

In March 1990 the Commission decided to terminate an infringement procedure initiated under Article 88 of the ECSC Treaty in July 1988 in respect of investment aid granted by the Portuguese Government to Fabrica de Aços Tomé Feteira. The aid constituted an illegal regional investment aid of ESC 92.8 million (ECU 0.5 million) with a view to increasing capacity. Further action became unnecessary when it emerged that the aid in question had been authorized prior to accession, although it was paid only in 1987.

3.9.2. Restructuring aid for Siderurgia Nacional

In December 1987, pursuant to Protocol No 20 of the Act of Accession of Portugal, the Commission authorized the payment of ESC 83 billion to Siderurgia Nacional as aid for the partial financing of its restructuring plan.

At 31 December 1990, all the aids had been paid. The breakdown is as follows:

Portugal

Aid payments under the Act of Accession

1.1.1985 - 31.21.1990 - transitional period

	1985	1986	1987	1988	1989	1990	Total (in ESC million)
- Investment aid		1 400			8 744	4 918	15 062
- Withdrawal of expansion plan (aid to cover losses)		4 620			44 795		49 415
- Operating losses (operating aid)		4 000			15 061	335	19 396
							83 873